

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
HARDIN COUNTY**

ANN E. HAMILTON,

CASE NO. 6-26-06

**FIRST PETITIONER-
APPELLANT,**

v.

LOREN J. HAMILTON,

**OPINION AND
JUDGMENT ENTRY**

**SECOND PETITIONER-
APPELLEE.**

**Appeal from Hardin County Common Pleas Court
Domestic Relations Division
Trial Court No. DRC 2022 3100**

Judgment Affirmed in Part and Reversed in Part

Date of Decision: October 13, 2026

APPEARANCES:

***Madison J. Wilhoite and Paul R. Kerridge* for Appellant**

***Daniel J. LaRoche* for Appellee**

MILLER, J.

{¶1} Appellant, Ann E. Hamilton, appeals the January 8, 2026 judgment entry granting Loren J. Hamilton’s motion for increased visitation in the Hardin County Court of Common Pleas. For the reasons that follow, we affirm in part and reverse in part.

{¶2} Loren and Ann were married on August 8, 2009. Two minor children were born of the marriage, Grady (Y.O.B.: 2011) and Morgan (Y.O.B.: 2017). On September 26, 2022, the parties filed a petition for dissolution. In pertinent part, the separation agreement stated that Ann shall be the sole residential parent of the children. The separation agreement provided Loren with two midweek evening visits (Tuesday and Thursday) from 6:00 p.m. to 8:00 p.m., overnight time on the second and fourth weekends from Saturday at 3:00 p.m. to Sunday at 9:00 a.m., two weeks of summer vacation, and limited holiday time. By contrast, the trial court’s local rule pertaining to parental visitation provides alternate weekends from Friday evening to Sunday evening, a midweek visitation, more extensive holidays, and summer parenting time provisions in accordance with the children’s ages.

{¶3} A dissolution hearing was held on November 7, 2022. At that time, the separation agreement was approved and incorporated as part of the decree, and Loren and Ann’s marriage was dissolved.

{¶4} On March 14, 2024, Loren filed a motion for reallocation of parental rights and responsibilities and a motion for legal custody or, alternatively, shared

parenting. Specifically, Loren requested that (1) the Court adopt a shared parenting plan to be proposed; (2) grant Father additional parenting time along with additional orders regarding parental rights; and (3) or that Father be named the residential parent and legal custodian of the parties' minor children with an allocation of parental rights and responsibilities consistent with the best interest of the children. On April 25, 2024, Ann filed her memorandum in opposition of Loren's motion.

{¶5} On January 31, 2025 and April 25, 2025, the trial court held hearings on the pending motions. Prior to the hearing, Loren withdrew the custody and shared parenting components of his motion and the hearing proceeded on the parenting-time modification only. On January 8, 2026, the trial court filed a judgment entry granting Loren's motion to modify his parenting time. Specifically, the trial court granted Loren parenting time largely in accordance with the local rules with some slightly expanded visitation hours during the school year. Relevant to this appeal, the trial court also ordered that Morgan be enrolled in public school rather than homeschooling. The trial court further ordered that Loren and Grady engage in joint family counseling with a goal to "repair and reconstruct the parent-child relationship." The trial court specified that the "counseling will continue until the recommendations of the providers indicate it is no longer necessary or there is no additional gain regarding the counseling with Grady." The trial court order also granted the parents the right of first refusal. Specifically, the trial court ordered that "in the event either parent is unavailable to care for the children for employment

related purposes, they must first offer the other parent the opportunity to care for the children before seeking a third-party care provider.”

{¶6} Ann filed a notice of appeal on February 3, 2026.

First Assignment of Error

The trial court’s visitation order is erroneous and should be reversed because the trial court relied on the wrong statute, the trial court incorrectly assigned the burden of proof, and the order is against the manifest weight of the evidence.

Third Assignment of Error

The trial court’s order regarding counseling is too broad and too vague to be effectively administered.

{¶7} In her first assignment of error, Ann contends that the parenting-time order should be reversed because the trial court analyzed R.C. 3109.04(F) rather than R.C. 3109.051(D), incorrectly assigned the burden of proof to her, and entered an order expanding Loren’s visitation schedule and adopting the right of first refusal which was not supported by competent, credible evidence. Her third assignment of error challenges the trial court’s counseling order. Because we find these two issues to be related, we decide them together.

Standard of Review

{¶8} “The establishment of a non-residential parent’s visitation rights is left to the sound discretion of the trial court and will not be reversed on appeal absent a showing that an abuse of that discretion has occurred.” *Nungester v. Nungester*, 2017-Ohio-6935, ¶ 5 (3d Dist.). An abuse of discretion suggests the trial court’s

decision is unreasonable or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). “A finding of an error in law is a legitimate ground for reversal, but a difference of opinion on credibility of witnesses and evidence is not.” *Seasons Coal Co., Inc. v. City of Cleveland*, 10 Ohio St.3d 77, 81 (1984).

{¶9} On the other hand, “[a]ppellate courts apply a de novo standard of review to an appeal from a trial court’s interpretation and application of a statute.” *In re C.R.*, 2021-Ohio-2456, ¶ 9 (3d Dist.). “A de novo standard of review requires an independent review of the trial court’s decision without any deference to the trial court’s determination.” *Id.*

Burden Shifting

{¶10} We first address Ann’s argument that the trial court impermissibly shifted the burden of proof of Loren’s motion to her.

{¶11} “‘The party seeking the modification of the parenting time schedule bears the burden of proving that the requested change is in the child’s best interest.’” *Nungester v. Nungester*, 2017-Ohio-6935, ¶ 6 (3d Dist.), quoting *Cichanowicz v. Cichanowicz*, 2013-Ohio-5657, ¶ 70 (3d Dist.). Loren filed the motion for modification of visitation, and accordingly, he bore the burden of demonstrating that additional parenting time, consistent with the Local Rule, was in the children’s best interest.

{¶12} Yet, in the January 8, 2026 judgment entry granting Loren’s motion to modify visitation, the trial court stated as follows:

However, Ann bears the burden of demonstrating that additional parenting time, consistent with Local Rule, would result in the children suffering a detriment. The Court finds Ann has not met this burden.

{¶13} Indeed, it appears from the language of the judgment entry that the trial court placed the burden of proof with Ann to demonstrate that granting additional parenting time to Loren would result in detriment to the parties' children.

{¶14} In *In re Adoption of D.C.H.*, this court illustrated the consequences of a trial court impermissibly shifting the burden of proof to a non-moving party. *In re Adoption of D.C.H.*, 2025-Ohio-5684, ¶ 48-50 (3d Dist.). In that case, during the best-interest phase of an adoption proceeding, the trial court incorrectly assumed and assigned the burden of proof to the natural parents rather than the petitioners. *Id.* at ¶ 48. We reversed the trial court's best-interest finding, holding that "petitioner retains the overall burden of proving that adoption is in the best interest of the child." *Id.* at ¶ 46, quoting *In re Adoption of E.G.C.*, 2023-Ohio-3563, ¶ 9 (12th Dist.). This court explained that "[s]ince we will not substitute our evaluation of the evidence for that of the trial court, we reverse the best interest finding so that the trial court can reweigh the evidence that was presented at the adoption hearing in the light of a proper understanding of the burdens on the respective parties." *Id.* at ¶ 50.

{¶15} Likewise, here, where the judgment entry indicates that the trial court evaluated the evidence at the hearing based on incorrect assumptions relating to the

burden of proof, we reverse the best interest finding so that the trial court can reweigh the evidence presented “in the light of a proper understanding of the burdens on the respective parties.” *Id.*

Parenting Time and Visitation

{¶16} Ann also contends that the trial court erred by analyzing R.C. 3109.04(F) rather than R.C. 3109.051(D).

{¶17} “The Ohio Supreme Court has determined that modification of a child visitation [order] is governed by R.C. 3109.051 unless shared parenting was ordered.” *Nungester* at ¶ 6, citing *Braatz v. Braatz*, 85 Ohio St.3d 40.

{¶18} In *Braatz v. Braatz*, the Supreme Court of Ohio held that “modification of visitation rights is governed by R.C. 3109.051, and that the specific rules for determining when a court may modify a custody decree as set forth in R.C. 3109.04 are not equally applicable to modification of visitation rights.” *Braatz* at 44-45. “Moreover, appellee need make no showing that there has been a change in circumstances in order for the court to revise his rights to visitation.” *Braatz* at 45. Ohio appellate courts continue to apply this distinction, holding that a change in circumstances is not a prerequisite for modifying visitation or parenting time, while the court must consider the R.C. 3109.051(D) factors and the children’s best interest. *See Collier v. Collier*, 2018-Ohio-3596, ¶ 19 (7th Dist.); *Cavagnaro v. Cavagnaro*, 2012-Ohio-4024, ¶ 9 (12th Dist.).

{¶19} When modifying visitation rights, the trial court must consider the factors enumerated in R.C. 3109.051(D) and has the discretion to then determine whether the modification in visitation is in the child's best interest.

{¶20} The relevant R.C. 3109.051(D) factors are:

- (1) The prior interaction and interrelationships of the child with the child's parents, siblings, and other persons related by consanguinity or affinity, and with the person who requested companionship or visitation if that person is not a parent, sibling, or relative of the child;
- (2) The geographical location of the residence of each parent and the distance between those residences, and if the person is not a parent, the geographical location of that person's residence and the distance between that person's residence and the child's residence;
- (3) The child's and parents' available time, including, but not limited to, each parent's employment schedule, the child's school schedule, and the child's and the parents' holiday and vacation schedule;
- (4) The age of the child;
- (5) The child's adjustment to home, school, and community;
- (6) If the court has interviewed the child in chambers, pursuant to division (C) of this section, regarding the wishes and concerns of the child as to parenting time by the parent who is not the residential parent or companionship or visitation by the grandparent, relative, or other person who requested companionship or visitation, as to a specific parenting time or visitation schedule, or as to other parenting time or visitation matters, the wishes and concerns of the child, as expressed to the court;
- (7) The health and safety of the child;
- (8) The amount of time that will be available for the child to spend with siblings;
- (9) The mental and physical health of all parties;

(10) Each parent's willingness to reschedule missed parenting time and to facilitate the other parent's parenting time rights, and with respect to a person who requested companionship or visitation, the willingness of that person to reschedule missed visitation;

(11) In relation to parenting time, whether either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether either parent, in a case in which a child has been adjudicated an abused child or a neglected child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of the adjudication; and whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child or a neglected child;

(12) [Relates to visitation by a person other than a parent];

(13) Whether the residential parent or one of the parents subject to a shared parenting decree has continuously and willfully denied the other parent's right to parenting time in accordance with an order of the court;

(14) Whether either parent has established a residence or is planning to establish a residence outside this state;

(15) [Relates to visitation by a person other than a parent];

(16) Any other factor in the best interest of the child.

“While it is always preferable for the trial court to mention R.C. 3109.051 and its factors, the court need not specifically refer to the statute.” *Cavagnaro* at ¶ 9.

{¶21} By contrast, R.C. 3109.04 governs allocation of parental rights and responsibilities where a shared parenting plan is in place. “[T]he factors set forth in R.C. 3109.04(F) and 3109.051(D) are not interchangeable.” *Fordham v. Fordham*, 2009-Ohio-1915, ¶ 17 (3d Dist.). Specifically, R.C. 3109.04(F) provides that:

(1) In determining the best interest of a child pursuant to this section, whether on an original decree allocating parental rights and responsibilities for the care of children or a modification of a decree allocating those rights and responsibilities, the court shall consider all relevant factors, including, but not limited to:

- (a) The wishes of the child's parents regarding the child's care;
- (b) If the court has interviewed the child in chambers pursuant to division (B) of this section regarding the child's wishes and concerns as to the allocation of parental rights and responsibilities concerning the child, the wishes and concerns of the child, as expressed to the court;
- (c) The child's interaction and interrelationship with the child's parents, siblings, and any other person who may significantly affect the child's best interest;
- (d) The child's adjustment to the child's home, school, and community;
- (e) The mental and physical health of all persons involved in the situation;
- (f) The parent more likely to honor and facilitate court-approved parenting time rights or visitation and companionship rights;
- (g) Whether either parent has failed to make all child support payments, including all arrearages, that are required of that parent pursuant to a child support order under which that parent is an obligor;
- (h) Whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether either parent, in a case in which a child has been adjudicated

an abused child or a neglected child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of an adjudication; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code or a sexually oriented offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the current proceeding and caused physical harm to the victim in the commission of the offense; and whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child or a neglected child;

(i) Whether the residential parent or one of the parents subject to a shared parenting decree has continuously and willfully denied the other parent's right to parenting time in accordance with an order of the court;

(j) Whether either parent has established a residence, or is planning to establish a residence, outside this state.

Analysis

{¶22} Ann contends that the trial court committed reversible error by considering Loren's motion by applying the R.C. 3109.04(F) factors rather than the R.C. 3109.051(D) factors.¹

¹ In its January 8, 2026 judgment entry, the trial court noted several circumstances that had changed in the Loren's life. On appeal, Ann also contends the trial court's referencing various changes demonstrates the court erroneously applied R.C. 3109.04(F) which requires a change in circumstances before the court can

{¶23} In response, Loren argues that although the trial court did reference R.C. 3109.04 and made findings relating to those factors, the overlap between some of the factors in R.C. 3109.051(D) and those in R.C. 3109.04(F) resulted in the trial court considering some of the R.C. 3109.051(D) factors. Loren notes that Ohio appellate authority does not require rote recitation of the R.C. 3109.051(D) analysis factors if the substance of those factors appear in the entry or record. *See Shafor v. Shafor*, 2009-Ohio-191, ¶ 8 (12th Dist.) (noting that the trial court need not explicitly refer to R.C. 3109.051(D) but holding that “the trial court’s findings and/or the record should indicate that the court considered the statute and its factors when it rendered its decision”).

{¶24} Indeed, in the judgment entry, the trial court discussed the children’s relationships with each parent, the parent’s geographical distance, the parents’ work schedules, the children’s activities, Grady’s wishes, safety, the parents’ difficulty communicating with each other, and relocation. Accordingly, Loren contends that the trial court may have erred in referencing R.C. 3109.04(F), but that the error was stylistic.

modify an allocation of parental rights and responsibilities. While the trial court did note various changes, we do not find such references to automatically indicate a misapplication of the statute as Ann contends. The changes noted by the trial court pertain to the children’s activity schedules, Loren’s work schedule and the distance that Loren must travel in order to effectuate visitation. These changes tend to explain and support the court’s modification of the visitation schedule to the standard schedule provided for in the court’s local rules.

{¶25} In the January 8, 2026 judgment entry, the trial court stated, “The Court makes the following findings pursuant to R.C. 3109.04 and R.C. 3109.051(D).” Then listed the factors set forth in R.C. 3109.04 and made findings as to each. The trial court made no additional findings relating to the mandatory R.C. 3109.051(D) factors. In its conclusions of law, the trial court stated:

Pursuant to R.C. 3109.04(F)(1), the court must determine the best interest of the child using factors listed therein when modifying a decree that allocates the parental rights and responsibilities. The Court shall also consider the additional factors listed in R.C. 3109.051(D) when modifying parenting time. Upon consideration of the factors, the court must determine what parenting time is in the best interest of the children. *Fordham v. Fordham*, 3d Dist. Logan No. 8-08-17, 2009-Ohio-1915; *see, Pneuman v. Troutman*, 3d Dist. No. 5-2000-09, 2000 WL 1154862, 2000-Ohio-1745 (Aug. 15, 2000).

{¶26} The trial court then appears to track the R.C. 3109.04(F) factors and discussed those factors in great detail. Although the trial court mentioned factors relating to R.C. 3109.051(D), the trial court did not specifically analyze the distinct R.C. 3109.051(D) factors.

{¶27} Thus, the judgment entry indicates that the trial court may have conflated the statutory factors set forth in R.C. 3109.04(F) relating to the allocation of parental rights and responsibilities where a shared parenting plan is in place with the statutory factors outlined in R.C. 3109.051(F) relating to modification of parental visitation. In *Nungester v. Nungester*, this court analyzed a judgment entry relating to a modification of visitation rights in which the trial court mistakenly considered only the factors outlined in R.C. 3109.04(F) rather than R.C. 3109.051.

This court reversed the trial court's decision in that case and noted that "there are several additional factors set forth in R.C. 3109.051 [that are not set forth in R.C. 3109.04(F)] which the statute states 'shall' be considered" and which the trial court failed to consider. *Nungester*, 2017-Ohio-6935, at ¶ 7.

{¶28} Having determined that the trial court committed reversible error by improperly shifting the burden for Loren's motion for modification of visitation to Ann, the trial court will need to consider the evidence in light of the proper burden of proof and make a determination regarding the best interest of the children. Thus, we need not separately determine whether the trial court's references to the R.C. 3109.04(F) factors constitutes reversible error. However, the trial court would be well advised to clarify the applicable statute in conducting its analysis on remand.

Weight of Evidence

{¶29} In her first assignment of error, Ann also contends that the weight of the evidence does not support the trial court's decision. Specifically, Ann focuses on two provisions: the broad right of first refusal and parenting time exceeding the local rule. She argues Loren sought a right of first refusal only for overnight visits, the GAL endorsed it only for overnight work absences, and no witness supported the broader employment-related right of first refusal ordered by the court. She also argues Loren requested local-rule parenting time, the GAL recommended local-rule parenting time, and no evidence supported an upward departure from the local rule.

{¶30} Loren responds that the trial court's parenting-time and right-of-first-refusal orders were supported by competent credible evidence, including testimony by the GAL that the existing schedule did not provide sufficient time for Loren to bond with the children, that his home was appropriate, and that expanded local-rule time would be beneficial. Loren acknowledges that he and the GAL discussed a right of first refusal at least for overnight periods, but he argues the court could order broader relief to maximize parental care over third-party care. Loren also argues the upward deviations from the local rule are minimal and that the summer parenting time ordered by the trial court is less than the local rule provides.

{¶31} Having remanded the matter for the trial court to apply the correct burden of proof to Loren's motion, we need not address the merits of Ann's arguments with respect to the weight of the evidence.

{¶32} Ann's first assignment of error is sustained.

Counseling Order

{¶33} In her third assignment of error, Ann challenges the trial court's counseling order. Specifically, the January 8, 2026 entry orders as follows:

It is further ORDERED that Loren Hamilton and Grady shall engage in joint family counseling, and the goal of that joint counseling will be to repair and reconstruct the parent-child relationship. . . . Grady shall also engage in his individual counseling with a provider selected mutually by the parties. . . . This counseling will continue until the recommendations of the providers indicate it is no longer necessary or there is no additional gain regarding the counseling with Grady. Ann shall participate in counseling at the direction of the counselors and both parties shall follow and implement all recommendations of

the counselors. The parties will cooperate and perform the signing of any necessary releases for the counselors to exchange information between them.

{¶34} Ann does not contest the court finding a need for Grady and Loren to participate in counseling but she challenges the order on the grounds that there is an absence of scope and duration of the counseling, the instruction that she also participate if directed by counselors, and the provision requiring both parties to implement all counselor recommendations. Ann contends that the provisions are too vague to be enforced and delegate judicial authority to counselors.

{¶35} The record does support the trial court's decision to order counseling between Grady and Loren in some form. Notably, Grady expressed the strained nature of his relationship with Loren in his in camera interview. Loren also expressed concerns regarding his relationship with Grady, but largely blamed Ann's influence for the challenges in his relationship with his son.

{¶36} The analysis of Ann's first assignment of error renders Ann's arguments relating to the counseling order largely moot as this court has remanded Loren's motion for increased visitation back to the trial court to be considered under the proper burden of proof.

{¶37} However, to the extent that Ann's third assignment of error is not rendered moot, we find her arguments relating to counseling to be without merit.

{¶38} Although Ann has hypothesized ways in which the trial court's counseling order could potentially be abused by the parties, her concern appears to

be theoretical. Moreover, although Ann contends that the counseling order is overbroad, she fails to offer any suggestion for how to improve the order.

{¶39} Furthermore, in the event that issues arise with respect to the scope of the counseling order or if the parties disagree with the counselor's recommendations, the parties are able to seek clarification or a further order or decision from the trial court.

{¶40} Accordingly, to the extent that Ann's third assignment of error is not rendered moot, it is overruled.

Second Assignment of Error

The trial court's order that M.H. be enrolled in public school and not be homeschooled violates Mother's procedural due process rights, substantive due process rights, and is against the manifest weight of the evidence.

{¶41} In her second assignment of error, Ann contends that the trial court erred by ordering Morgan to attend public school rather than homeschool.² Ann asserts that the trial court ordered public-school enrollment sua sponte although Loren asked only for access to homeschooling records. Ann notes that neither Loren nor the GAL requested an end to homeschooling. Accordingly, Ann argues that she lacked notice and an opportunity to present evidence on the issue of homeschooling, and that the court stopped her from explaining how she complies with Ohio-law relating to homeschooling despite no objection. She also argues the order interferes

² The record indicates that at the time of the hearing, Grady was attending public school.

with her right, as sole residential parent and legal custodian, to determine Morgan's schooling, and that no competent, credible evidence shows public school is in Morgan's best interest.

{¶42} Loren offered no opposition to Ann's second assignment of error concerning homeschooling.³ In reply, Ann treats that omission as a waiver of opposition and urges reversal on manifest-weight grounds without reaching constitutional issues.

{¶43} Ohio's home-school education statute, R.C. 3321.042, provides that a child between the ages of 6 to 18 are permitted to receive parent-directed education in the required subject areas and makes such a child exempt from compulsory school attendance under R.C. 3321.04 upon the statutory notice and assurance.

R.C. 3321.042(C) provides:

Within five calendar days after commencing home education . . . the parent or guardian of a child receiving a home education shall transmit a notice to the superintendent of the child's school district of residence. The notice shall provide the parent's name and address, the child's name, and an assurance that the child will receive education in the subject areas required under [R.C. 3321.042(B)]. The child's exemption under this section is effective immediately upon receipt of notice.

{¶44} The statute also provides that the home education section is not subject to rules adopted by the Director or Department of Education and Workforce. Further, pursuant to R.C. 3321.042(F), "[i]f there is evidence that a child exempt

³ At oral arguments, Loren's counsel confirmed that Loren does not object to Ann homeschooling Morgan.

under this section is not receiving an education in the subject areas required . . . , then that child may be subject to [the truancy provisions of R.C. 3321.19].”

{¶45} The trial court’s stated concern with regard to homeschooling was that Ann did not provide testimony, records verification, or tangible documents sufficient for the court to verify Morgan’s academic achievement or progress. But R.C. 3321.042 does not support a judicially imposed general record-production requirement as a condition of home education.

{¶46} At the hearing, the parties mentioned Morgan’s homeschooling, but neither party objected to the continuance of homeschooling. Ann testified to her and Morgan’s homeschool schedule, including a homeschool co-op, art classes, and a physical education class. Ann testified that Grady was initially homeschooled, but began attending public school in sixth grade. At that time, he was placed in advanced courses. Ann testified that Morgan is reading and understanding advanced books, including financial literary books marketed to adults.

{¶47} Loren testified to his understanding of Morgan’s homeschooling schedule and the homeschooling co-op. When asked by his counsel, “I know there [are] requirements with different home school programs. Do you know what the requirements for your daughter are?”, Loren replied, “No. We have asked for specific details and we do not have them.” (Jan. 31, 2025 Tr. at 251-252). However, other than this minimal reference to requesting information regarding Morgan’s

homeschooling, neither party expressed concerns with Morgan's homeschooling or alleged that Morgan was not receiving instruction in the required subject areas.

{¶48} Furthermore, at no time did the parties or the GAL request an end to homeschooling. Indeed, at the hearing, the GAL specified that it was his understanding that neither party was requesting the termination of homeschooling for Morgan. (Jan. 31, 2025 Tr. at 49). Moreover, Loren's appellate brief offers no opposition to Ann's second assignment of error.

{¶49} Nonetheless, in the January 8, 2026 judgment entry, the trial court found:

Morgan is homeschooled and apart from Ann's testimony, no records verification or other tangible documents were produced by Ann regarding Morgan's academic achievement or progress. Ann was asked to produce this information by both Loren and the Guardian ad Litem and never did. The request for these records was not unreasonable nor overly burdensome; Ann simply ignored the requests. This is concerning for the court as there's no way to verify that Morgan is receiving an appropriate education. Therefore, the Court cannot conclude that Morgan is doing well and adjusted well in her homeschool setting. This approach also speaks to Ann's general attitude. As a result of Ann's failure to confirm the educational progress for Morgan, it would appear best that Morgan be enrolled at Ada Schools, where her academic achievement can be monitored and reported to both parents. Further Morgan's only interaction with other children occur at her co-op once a week and her limited extracurricular activities. Grady describes Morgan as lacking appropriate social skills.

{¶50} The trial court then ordered that both children be enrolled and attend the Village of Ada Exempt School district.

{¶51} After reviewing the record, we find Ann’s argument with regard to the public school order to be meritorious. The public-school order was not requested by either party, was not recommended by the GAL, and is not supported by competent, credible evidence that public schooling rather than continued home education serves Morgan’s best interest. The home-education statute further undercuts the trial court’s apparent premise that the absence of additional academic records, by itself, defeats lawful homeschooling.

{¶52} Ann’s second assignment of error is sustained.

Conclusion

{¶53} Having found error prejudicial to the appellant herein in the particulars assigned and argued, we affirm the decision of the Hardin County Court of Common Pleas, Domestic Relations Division in part, and reverse the decision in part and remand the matter.

***Judgment Affirmed in part
and Reversed in part.***

ZIMMERMAN, P.J. and WALDICK, J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, it is the judgment and order of this Court that the judgment of the trial court is affirmed in part and reversed in part with costs assessed equally between Appellant and Appellee for which judgment is hereby rendered. The cause is hereby remanded to the trial court for further proceedings and for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. See App.R. 30.

Mark C. Miller, Judge

William R. Zimmerman, Judge

Juergen A. Waldick, Judge

DATED:
/jlm